

NEW YORK (STATE). Public Service Commissions Law. 1907.

HD
2767
N73
1907



HD
2767
N73
1907

J. E. S.

The date shows when this volume was taken.
To renew this book copy the call No. and give to
the librarian.

~~DEC 12 1974 DR~~

HOME USE RULES

All Books subject to Recall.

Books not in use for instruction or research are returnable within 4 weeks.

Volumes of periodicals and of pamphlets are held in the library as much as possible. For special purposes they are given out for a limited time.

Borrowers should not use their library privileges for the benefit of other persons.

Students must return all books before leaving town. Officers should arrange for the return of books wanted during their absence from town.

Books needed by more than one person are held on the reserve list.

Books of special value and gift books, when the giver wishes it, are not allowed to circulate.

Readers are asked to report all cases of books marked or mutilated.

Cornell
<i>President</i>
A263106

Do not deface books by marks and writing.

Cornell University Library
HD2767 .N73 1907

Act to establish the public service comm



3 1924 030 065 522

olin

LAWS OF NEW YORK.—By Authority.

[Every law, unless a different time shall be prescribed therein, shall not take effect until the twentieth day after it shall have become a law. Section 43, article II, chapter 8, General Laws.]

Chap. 429.

AN ACT to establish the public service commissions and prescribing their powers and duties, and to provide for the regulation and control of certain public service corporations and making an appropriation therefor.

Became a law, June 6, 1907, with the approval of the Governor. Passed, three-fifths being present.

Passed without the acceptance of the city of New York.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

THE PUBLIC SERVICE COMMISSIONS LAW.

- Article I. Public service commissions; general provisions (§§ 1-23).
- II. Provisions relating to railroads, street railroads and common carriers (§§ 25-40).
- III. Provisions relating to the powers of the commissions in respect to railroads, street railroads and common carriers (§§ 45-60).
- IV. Provisions relating to gas and electric corporations; regulation of price of gas and electricity (§§ 65-77).
- V. Commissions and offices abolished; saving clause; repeal (§§ 80-89).

ARTICLE I.

PUBLIC SERVICE COMMISSIONS; GENERAL PROVISIONS.

- Section 1. Short title.
2. Definitions.
3. Public service districts.
4. Commissions established; appointment; removal; terms of office.

- Section 5. Jurisdiction of commissions.
6. Counsel to the commissions.
 7. Secretary to the commissions.
 8. Additional officers and employees.
 9. Oath of office; eligibility of commissioners and officers.
 10. Offices of commissions; meetings; official seal; stationery.
 11. Quorum; powers of a commissioner.
 12. Counsel to the commissions; duties.
 13. Salaries and expenses.
 14. Payment of salaries and expenses.
 15. Certain acts prohibited.
 16. Annual report of commissions.
 17. Certified copies of papers filed to be evidence.
 18. Fees to be charged and collected by the commissions.
 19. Attendance of witnesses and their fees.
 20. Practice before the commissions; immunity of witnesses.
 21. Court proceedings; preference.
 22. Rehearing before commission.
 23. Service and effect of orders.

Section 1. **Short title.**— This chapter shall be known as the public service commissions law, and shall apply to the public services herein described, and to the commissions hereby created.

§ 2. **Definitions.**— The term “commission,” when used in this act, means either public service commission, hereby created, which by the terms of this act is vested with the power or duty in question.

The term “commissioner,” when used in this act, means one of the members of such commission.

The term “corporation,” when used in this act, includes a corporation, company, association and joint-stock association.

The word “person,” when used in this act, includes an individual and a firm or copartnership.

The term “street railroad,” when used in this act, includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for compensation, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place in any city, village or town, and including

all switches, spurs, tracks, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such street railroad; but the said term "street railroad," when used in this act, shall not include a railroad constituting or used as part of a trunk line railroad system.

The term "railroad," when used in this act, includes every railroad, other than a street railroad, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, switches, spurs, tracks, stations and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad.

The term "street railroad corporation," when used in this act, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling any street railroad or any cars or other equipment used thereon or in connection therewith.

The term "railroad corporation," when used in this act, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling any railroad or any cars or other equipment used thereon or in connection therewith.

The term "common carrier," when used in this act, includes all railroad corporations, street railroad corporations, express companies, car companies, sleeping-car companies, freight companies, freight-line companies and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state.

The term "gas corporation," when used in this act, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing or controlling any plant or property for manufacturing and distributing and selling for distribution or distributing illuminating gas (natural or manufactured) for light, heat or power.

The term "electrical corporation," when used in this act, includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or

street railroad corporation generating electricity for its own use exclusively), owning, operating, managing or controlling any plant or property for generating and distributing, or generating and selling for distribution, or distributing electricity for light, heat or power or for the transmission of electric current for such purposes.

The term "transportation of property or freight," when used in this act, includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage and handling of the property or freight transported.

The term "municipality," when used in this act, includes a city, village, town or lighting district, organized as provided by a general or special act.

§ 3. **Public service districts.**— There are hereby created two public service districts, to be known as the first district and the second district. The first district shall include the counties of New York, Kings, Queens and Richmond. The second district shall include all other counties of the state.

§ 4. **Commissions established; appointment; removal; terms of office.**— There shall be a public service commission for each district, and each commission shall possess the powers and duties hereinafter specified, and also all powers necessary or proper to enable it to carry out the purposes of this act. The commission of the first district shall consist of five members and the commission of the second district shall consist of five members, to be appointed by the governor, by and with the advice and consent of the senate, one of whom designated by the governor shall, during his term of office, be the chairman of the commission of which he is a member. Each commissioner shall be a resident of the district for which he is appointed.

The governor may remove any commissioner for inefficiency, neglect of duty or misconduct in office, giving to him a copy of the charges against him, and an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than ten days notice. If such commissioner shall be removed the governor shall file in the office of the secretary of state a complete statement of all charges made against such commissioner, and his findings thereon, together with a complete record of the proceedings.

Of the members of the commission in each district first appointed hereunder, one shall hold office until February first, nine-

teen hundred and nine, one until February first, nineteen hundred and ten, one until February first, nineteen hundred and eleven, one until February first, nineteen hundred and twelve, and one until February first, nineteen hundred and thirteen; the term of office of each commissioner so appointed shall begin on the first day of July, nineteen hundred and seven. Upon the expiration of each of such terms, the term of office of each commissioner thereafter appointed shall be five years from the first of February. Vacancies shall be filled by appointment for the unexpired term.

§ 5. **Jurisdiction of commissions.**— The jurisdiction, supervision, powers and duties of the public service commission in the first district shall extend under this act:

1. To railroads and street railroads lying exclusively within that district, and to the persons or corporations owning, leasing, operating or controlling the same.

2. To street railroads any portion of whose lines lies within that district, to all transportation of persons or property thereon within that district or from a point within either district to a point within the other district, and to the persons or corporations owning, operating, controlling or leasing the said street railroads; provided, however, that the commission for the second district shall have jurisdiction over such portion of the lines of said street railroads as lies within the second district, and over the persons or corporations owning, operating, controlling or leasing the same, so far as concerns the construction, maintenance, equipment, terminal facilities and local transportation facilities of said street railroads within the second district.

3. To such portion of the lines of any other railroad as lies within that district, and to the person or corporation owning, leasing, operating or controlling the same, so far as concerns the construction, maintenance, equipment, terminal facilities and local transportation facilities, and local transportation of persons or property within that district.

4. To any common carrier operating or doing business exclusively within that district.

5. To the manufacture, sale or distribution of gas and electricity for light, heat and power in said district, and to the persons or corporations owning, leasing, operating or controlling the same.

6. And in addition thereto, the commission in the first district shall have and exercise all powers heretofore conferred upon the board of rapid transit railroad commissioners under chapter four.

of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants," and the acts amendatory thereto.

All jurisdiction, supervision, powers and duties under this act not specifically granted to the public service commission of the first district shall be vested in, and be exercised by, the public service commission of the second district, including the regulation and control of all transportation of persons or property, and the instrumentalities connected with such transportation, on any railroad other than a street railroad from a point within either district to a point within the other district.

§ 6. **Counsel to the commissions.**— Each commission shall appoint as counsel to the commission an attorney and counselor-at-law of the state of New York, who shall hold office during the pleasure of the commission. Each counsel to the commission shall, subject to the approval of the commission, have the power to appoint, and at pleasure remove, attorneys and counselors-at-law, to assist him in the performance of his duties, and also to employ and remove stenographers and process-servers.

§ 7. **Secretary to the commissions.**— Each commission shall have a secretary to be appointed by it and to hold office during its pleasure. It shall be the duty of the secretary to keep a full and true record of all proceedings of the commission, of all books, maps, documents and papers ordered filed by the commission and of all orders made by a commissioner and of all orders made by the commission or approved and confirmed by it and ordered filed, and he shall be responsible to the commission for the safe custody and preservation of all such documents at its office. Under the direction of the commission the secretary shall have general charge of its office, superintend its clerical business and perform such other duties as the commission may prescribe. He shall have power and authority to administer oaths in all parts of the state, so far as the exercise of such power is properly incidental to the performance of his duty or that of the commission. The secretary shall designate, from time to time, one of the clerks appointed by the commission to perform the duties of secretary during his absence and, during such time, the clerk so designated shall at the office possess the powers of the secretary of the commission.

§ 8. **Additional officers and employees.**— Each commission shall have power to employ, during its pleasure, such officers,

clerks, inspectors, experts and employees as it may deem to be necessary to carry out the provisions of this act, or to perform the duties and exercise the powers conferred by law upon the commission.

§ 9. **Oath of office; eligibility of commissioners and officers.**— Each commissioner and each person appointed to office by a commission or by counsel to a commission shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office. No person shall be eligible for appointment or shall hold the office of commissioner or be appointed by a commission or by counsel to a commission to, or hold, any office or position under a commission, who holds any official relation to any common carrier, railroad corporation, street railroad corporation, gas corporation or electrical corporation subject to the provisions of this act, or who owns stocks or bonds therein.

§ 10. **Offices of commissions; meetings; official seal; stationery, etc.**— 1. The principal office of the commission of the first district shall be in the borough of Manhattan, city of New York; and the office of the second district shall be in the city of Albany, in rooms designated by the trustees of public buildings. Each commission shall hold stated meetings at least once a month during the year at its office. Each shall have an official seal to be furnished and prepared by the secretary of state as provided by law. The offices shall be supplied with all necessary books, maps, charts, stationery, office furniture, telephone and telegraph connections and all other necessary appliances, to be paid for in the same manner as other expenses authorized by this act.

2. The offices of each commission shall be open for business between the hours of eight o'clock in the morning and eleven o'clock at night every day in the year, and one or more responsible persons, to be designated by the commission or by the secretary under the direction of the commission, shall be on duty at all times in immediate charge thereof.

§ 11. **Quorum; powers of a commissioner.**— A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the commission, and may hold meetings of the commission at any time or place within the state. Any investigation, inquiry or hearing which either commission has power to undertake or to hold may be undertaken or held by or before any commissioner. All investigations, inquiries, hear-

ings and decisions of a commissioner shall be and be deemed to be the investigations, inquiries, hearings and decisions of the commission and every order made by a commissioner, when approved and confirmed by the commission and ordered filed in its office, shall be and be deemed to be the order of the commission.

§ 12. Counsel to the commissions; duties.— It shall be the duty of counsel to a commission to represent and appear for the people of the state of New York and the commission in all actions and proceedings involving any question under this act, or under or in reference to any act or order of the commission, and, if directed to do so by the commission, to intervene, if possible, in any action or proceeding in which any such question is involved; to commence and prosecute all actions and proceedings directed or authorized by the commission, and to expedite in every way possible final determination of all such actions and proceedings; to advise the commission and each commissioner when so requested in regard to all matters in connection with the powers and duties of the commission and of the members thereof, and generally to perform all duties and services as attorney and counsel to the commission which the commission may reasonably require of him.

§ 13. Salaries and expenses.— The annual salary of each commissioner shall be fifteen thousand dollars (\$15,000). The annual salary of counsel to a commission shall be ten thousand dollars (\$10,000). The annual salary of a secretary to a commission shall be six thousand dollars (\$6,000). All officers, clerks, inspectors, experts and employees of a commission, and all persons appointed by the counsel to a commission, shall receive the compensation fixed by the commission.

The commissioners, counsel to the commission and the secretary, and their officers, clerks, inspectors, experts and other employees, shall have reimbursed to them all actual and necessary traveling and other expenses and disbursements incurred or made by them in the discharge of their official duties.

§ 14. Payment of salaries and expenses.— 1. The salaries of the commissioners, the counsel to the commission, and the secretary to the commission in the first district shall be audited and allowed by the state comptroller, and paid monthly by the state treasurer upon the order of the comptroller out of the funds provided therefor. All other salaries and expenses of the commission

of the first district shall be audited and paid as follows: The board of estimate and apportionment of the city of New York, or other board or public body on which is imposed the duty and in which is vested the power of making appropriations of public moneys for the purposes of the city government shall, from time to time, on requisition duly made by the public service commission of the first district, appropriate such sum or sums of money as may be requisite and necessary to enable it to do and perform, or cause to be done and performed, the duties in this or in any other act prescribed, and to provide for the expenses and the compensation of the employees of such commission, and such appropriation shall be made forthwith upon presentation of a requisition from the said commission, which shall state the purposes for which such moneys are required by it. In case the said board of estimate and apportionment, or such other board or public body, fail to appropriate such amount as the said commission deems requisite and necessary, the said commission may apply to the appellate division of the supreme court in the first department, or notice to the board of estimate and apportionment or such other board or public body aforesaid, to determine what amount shall be appropriated for the purposes so required and the decision of said appellate division shall be final and conclusive; and the city shall not be liable for any indebtedness incurred by the said commission in excess of such appropriation or appropriations. It shall be the duty of the auditor and comptroller of said city, after such appropriation shall have been duly made, to audit and pay the proper expenses and compensation of the employees of said commission other than its counsel and secretary, upon vouchers therefor, to be furnished by the said commission, which payments shall be made in like manner as payments are now made by the auditor, comptroller or other public officers of claims against and demands upon such city; and for the purpose of providing funds with which to pay the said sums, the comptroller or other chief financial officer of said city, is hereby authorized and directed to issue and sell revenue bonds of such city in anticipation of receipt of taxes and out of the proceeds of such bonds to make the payments in this section required to be made. The amount necessary to pay the principal and interest of such bonds shall be included in the estimates of moneys necessary to be raised by taxation to carry on the business of said city, and shall be made a part of the tax levy

for the year next following the year in which such appropriations are made. The commission may provide that all or any portion of the expenses so incurred and paid by said city as in this section provided, and for which said city shall be liable, shall be repaid, with interest, by the bidder or bidders at the public sale of the rights, privileges and franchises, as provided in chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants," and the acts amendatory thereto. The said comptroller shall pay the proper salaries and the expenses of the said commission upon its requisition, for the remainder of the fiscal year after this act shall take effect, from any funds that may have been heretofore appropriated for the board of rapid transit railroad commissioners, which appropriation is hereby transferred to the credit of the public service commission of the first district. In case the said appropriation shall not be sufficient to meet such salaries and expenses, the comptroller of said city is hereby authorized and directed to issue and sell revenue bonds of said city, in anticipation of receipt of taxes, as hereinbefore provided.

2. All salaries and expenses of the commission in the second district shall be audited and allowed by the state comptroller and paid monthly by the state treasurer upon the order of the comptroller, out of the funds provided therefor.

§ 15. **Certain acts prohibited.**— Every commissioner, counsel to a commission, the secretary of a commission, and every person employed or appointed to office, either by a commission or by the counsel to a commission, is hereby forbidden and prohibited to solicit, suggest, request or recommend, directly or indirectly, to any common carrier, railroad corporation or street railroad corporation, or to any officer, attorney, agent or employee thereof, the appointment of any person to any office, place, position or employment. And every common carrier, railroad corporation, street railroad corporation, gas corporation and electrical corporation and every officer, attorney, agent and employee thereof, is hereby forbidden and prohibited to offer to any commissioner, to counsel to a commission, to the secretary thereof, or to any person employed by a commission or by the counsel to a commission, any office, place, appointment or position, or to offer or give to any commissioner, to counsel to a commission, to the secretary thereof, or to any officer employed or appointed to office by the commis-

sion or by the counsel to the commission, any free pass or transportation or any reduction in fare to which the public generally are not entitled or free carriage for freight or property or any present, gift or gratuity of any kind. If any commissioner, counsel to a commission, the secretary thereof or any person employed or appointed to office by a commission or by counsel to a commission, shall violate any provision of this section he shall be removed from the office held by him. Every commissioner, counsel to the commission, the secretary thereof and every person employed or appointed to office by the commission or by counsel to the commission, shall be and be deemed to be a public officer.

§ 16. **Annual report of commissions.**— All proceedings of each commission and all documents and records in its possession shall be public records, and each commission shall make an annual report to the legislature on or before the second Monday of January in each year, which shall contain copies of all orders issued by it, and any information in the possession of the commission which it shall deem of value to the legislature and the people of the state. Five hundred copies of each report, together with abstracts of the reports to such commission of common carriers, railroad corporations and street railroad corporations, and gas and electrical corporations, in addition to the regular number prescribed by law, shall be printed as a public document of the state, bound in cloth, for the use of the commissioners and to be distributed by them in their discretion to railroad, street railroad, gas and electrical corporations and other persons interested therein.

§ 17. **Certified copies of papers filed to be evidence.**— Copies of all official documents and orders filed or deposited according to law in the office of either commission, certified by a commissioner or by the secretary of the commission to be true copies of the originals, under the official seal of the commission, shall be evidence in like manner as the originals.

§ 18. **Fees to be charged and collected by the commissions.**— Each commission shall charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by the commission, ten cents for each folio; for certified copies of official documents and orders filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for certifying a copy of any report made by a corporation to the commission, two dollars; for each certified copy of the annual report of the commission, one

dollar and fifty cents; for certified copies of evidence and proceedings before the commission, fifteen cents for each folio. No fees shall be charged or collected for copies of papers, records or official documents, furnished to public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution. All fees charged and collected by the commission of the first district shall belong to the city of New York, and shall be paid monthly, accompanied by a detailed statement thereof, into the treasury of the city to the credit of the general fund, and all fees charged and collected by the commission of the second district shall belong to the people of the state, and shall be paid monthly, accompanied by a detailed statement thereof, into the treasury of the state to the credit of the general fund.

§ 19. Attendance of witnesses and their fees.—1. All subpoenas shall be signed and issued by a commissioner or by the secretary of a commission and may be served by any person of full age. The fees of witnesses required to attend before a commission, or a commissioner, shall be two dollars for each day's attendance, and five cents for every mile of travel by the nearest generally traveled route in going to and from the place where attendance of the witness is required, such fees to be paid when the witness is excused from further attendance; and the disbursements made in the payment of such fees shall be audited and paid in the first district in the same manner provided for the payment of expenses of the commission.

2. If a person subpoenaed to attend before a commission, or a commissioner fails to obey the command of such subpoena, without reasonable cause, or if a person in attendance before a commission, or commissioner, shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book or papers, when ordered so to do by the commission, or a commissioner, or to subscribe and swear to his deposition after it has been correctly reduced to writing, he shall be guilty of a misdemeanor and may be prosecuted therefor in any court of competent criminal jurisdiction.

If a person in attendance before a commission or a commissioner refuses without reasonable cause to be examined or to answer a legal and pertinent question or produce a book or paper, when ordered so to do by a commission or a commissioner, the commission may apply to any justice of the supreme court upon

proof by affidavit of the facts for an order returnable in not less than two nor more than five days directing such person to show cause before the justice who made the order, or any other justice of the supreme court, why he should not be committed to jail; upon the return of such order the justice before whom the matter shall come on for hearing shall examine under oath such person whose testimony may be relevant, and such person shall be given an opportunity to be heard; and if the justice shall determine that such person has refused without reasonable cause or legal excuse to be examined, or to answer a legal and pertinent question, or to produce a book or paper which he was ordered to bring, he may forthwith, by warrant, commit the offender to jail, there to remain until he submits to do the act which he was so required to do or is discharged according to law.

§ 20. **Practice before the commissions; immunity of witnesses.**— All hearings before a commission or a commissioner, shall be governed by rules to be adopted and prescribed by the commission. And in all investigations, inquiries or hearings the commission, or a commissioner, shall not be bound by the technical rules of evidence. No person shall be excused from testifying or from producing any books or papers in any investigation or inquiry by or upon any hearing before a commission or any commissioner, when ordered to do so by the commission, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained is intended to give, or shall be construed as in any manner giving unto any corporation immunity of any kind.

§ 21. **Court proceedings; preferences.**— All actions and proceedings under this act, and all actions and proceedings commenced or prosecuted by order of either commission, and all actions and proceedings to which either commission or the people of the state of New York may be parties, and in which any question arises under this act or under the railroad law, or under or concerning any order or action of the commission, shall be pre-

ferred over all other civil causes except election causes in all courts of the state of New York and shall be heard and determined in preference to all other civil business pending therein excepting election causes, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the commission in any action or proceeding in which he may be allowed to intervene.

§ 22. **Rehearing before commission.**— After an order has been made by a commission any party interested therein may apply for a rehearing in respect to any matter determined therein, and the commission may grant and hold such a rehearing if in its judgment sufficient reason therefor be made to appear; if a rehearing shall be granted, the same shall be determined by the commission within thirty days after the same shall be finally submitted. An application for such a rehearing shall not excuse any common carrier, railroad corporation or street-railroad corporation from complying with or obeying any order or any requirement of any order of the commission, or operate in any manner to stay or postpone the enforcement thereof except as the commission may by order direct. If, after such rehearing and a consideration of the facts, including those arising since the making of the order, the commission shall be of opinion that the original order or any part thereof is in any respect unjust or unwarranted, the commission may abrogate, change or modify the same. An order made after any such rehearing abrogating, changing or modifying the original order shall have the same force and effect as an original order but shall not affect any right or the enforcement of any right arising from or by virtue of the original order.

§ 23. **Service and effect of orders.**— Every order of a commission shall be served upon every person or corporation to be affected thereby, either by personal delivery of a certified copy thereof, or by mailing a certified copy thereof, in a sealed package with postage prepaid, to the person to be affected thereby or, in the case of a corporation, to any officer or agent thereof upon whom a summons may be served in accordance with the provisions of the code of civil procedure. It shall be the duty of every person and corporation to notify the commission forthwith, in writing, of the receipt of the certified copy of every order so served, and in the case of a corporation such notification must be signed and acknowledged by a person or officer duly authorized by the corpo-

ration to admit such service. Within a time specified in the order of the commission every person and corporation upon whom it is served must if so required in the order notify the commission in like manner whether the terms of the order are accepted and will be obeyed.

Every order of a commission shall take effect at a time therein specified and shall continue in force for a period therein designated unless earlier modified or abrogated by the commission or unless such order be unauthorized by this or any other act or be in violation of a provision of the constitution of the state or of the United States.

ARTICLE II.

PROVISIONS RELATING TO RAILROADS, STREET RAILROADS AND COMMON CARRIERS.

Section 25. Application of article.

26. Adequate service; just and reasonable charges.
27. Switch and side-track connections; powers of commissions.
28. Tariff schedules; publication.
29. Changes in schedule; notice required.
30. Concurrence in joint tariffs; contracts, agreements or arrangements between any carriers.
31. Unjust discrimination.
32. Unreasonable preference.
33. Transportation prohibited until publication of schedules; rates as fixed to be charged; passes prohibited.
34. False billing, etc., by carrier or shipper.
35. Discrimination prohibited; connecting lines.
36. Long and short haul.
37. Distribution of cars.
38. Liability for damage to property in transit.
39. Continuous carriage.
40. Liability for loss or damage by violation of this act.

§ 25. **Application of article.**— The provisions of this article shall apply to the transportation of passengers, freight or property, from one point to another within the state of New York, and to any common carrier performing such service.

§ 26. **Safe and adequate service; just and reasonable charges.**— Every corporation, person or common carrier performing a service

designated in the preceding section, shall furnish, with respect thereto, such service and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such corporation, person or common carrier for the transportation of passengers, freight or property or for any service rendered or to be rendered in connection therewith, as defined in section two of this act, shall be just and reasonable and not more than allowed by law or by order of the commission having jurisdiction and made as authorized by this act. Every unjust or unreasonable charge made or demanded for any such service or transportation of passengers, freight or property or in connection therewith or in excess of that allowed by law or by order of the commission is prohibited.

§ 27. Switch and side track connections; powers of commissions.

—1. A railroad corporation, upon the application of any shipper tendering traffic for transportation, shall construct, maintain and operate upon reasonable terms a switch connection or connections with a lateral line of railroad or private sidetrack owned, operated or controlled by such shipper, and shall, upon the application of any shipper, provide upon its own property a sidetrack and switch connection with its line of railroad, whenever such sidetrack and switch connection is reasonably practicable, can be put in with safety and the business therefor is sufficient to justify the same.

2. If any railroad corporation shall fail to install or operate any such switch connection with a lateral line of railroad or any such side-track and switch connection as aforesaid, after written application therefor has been made to it, any corporation or person interested may present the facts to the commission having jurisdiction by written petition, and the commission shall investigate the matters stated in such petition, and give such hearing thereon as it may deem necessary or proper. If the commission be of opinion that it is safe and practicable to have a connection, substantially as prayed for, established or maintained, and that the business to be done thereon justifies the construction and maintenance thereof, it shall make an order directing the construction and establishment thereof, specifying the reasonable compensation to be paid for the construction, establishment and maintenance thereof, and may in like manner upon the application of the railroad corporation order the discontinuance of such switch connection.

§ 28. Tariff schedules; publication.— Every common carrier shall file with the commission having jurisdiction and shall print

and keep open to public inspection schedules showing the rates, fares and charges for the transportation of passengers and property within the state between each point upon its route and all other points thereon; and between each point upon its route and all points upon every route leased, operated or controlled by it; and between each point on its route or upon any route leased, operated or controlled by it and all points upon the route of any other common carrier, whenever a through route and joint rate shall have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers in such through route shall file, print and keep open to public inspection, as aforesaid, the separately established rates, fares and charges applied to the through transportation. The schedules printed as aforesaid shall plainly state the places between which property and passengers will be carried, and shall also contain the classification of passengers, freight or property in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the commission may require to be stated, all privileges or facilities granted or allowed, and any rules or regulations which may in any wise change, affect or determine any part, or the aggregate of, such aforesaid rates, fares and charges, or the value of the service rendered to the passenger, shipper or consignee. Such schedules shall be plainly printed in large type; copies thereof for the use of the public shall be kept posted in two public and conspicuous places in every depot, station and office of every common carrier where passengers or property are received for transportation, in such manner as to be readily accessible to and conveniently inspected by the public. The form of every such schedule shall be prescribed by the commission and shall conform as nearly as possible to the form of schedule required by the interstate commerce commission under the act of congress, entitled: "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, as amended by act approved June twenty-ninth, nineteen hundred and six, and other amendments thereto. Where any similar schedule is required by law to be filed with both commissions they shall agree upon an identical form for such schedule. The commission shall have power, from time to time, in its discretion, to determine and prescribe by order such changes in the form of such schedules as may be found expedient.

§ 29. **Changes in schedule; notice required.**— Unless the commission otherwise orders no change shall be made in any rate, fare or charge, or joint rate, fare or charge, which shall have been filed and published by a common carrier in compliance with the requirements of this act, except after thirty days' notice to the commission and publication for thirty days as required by section twenty-eight of this act, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, fare or charge will go into effect; and all proposed changes shall be shown by printing, filing and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. The commission, for good cause shown, may allow changes in rates without requiring the thirty days' notice and publication herein provided for, by duly filing and publishing in such manner as it may direct an order specifying the change so made and the time when it shall take effect; all such changes shall be immediately indicated upon its schedules by the common carrier.

§ 30. **Concurrence in joint tariffs; contracts, agreements or arrangements between any carriers.**— 1. The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission; and where such evidence of concurrence or acceptance is filed, it shall not be necessary for the carriers filing the same also to file copies of the tariffs in which they are named as parties.

2. Every common carrier shall file with the commission sworn copies of every contract, agreement or arrangement with any other common carrier or common carriers relating in any way to the transportation of passengers, property or freight.

§ 31. **Unjust discrimination.**— No common carrier shall, directly or indirectly, by any special rate, rebate, drawback, or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered in the transportation of passengers, freight or property, except as authorized in this act, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under the same or substantially similar circumstances and conditions.

§ 32. **Unreasonable preference.**— No common carrier shall make or give any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of traffic, to any prejudice or disadvantage in any respect whatsoever.

§ 33. **Transportation prohibited until publication of schedules; rates as fixed to be charged; passes prohibited.**— No common carrier subject to the provisions of this act shall after the first day of November, nineteen hundred and seven, engage or participate in the transportation of passengers, freight or property, between points within the state, until its schedules of rates, fares and charges shall have been filed and published in accordance with the provisions of this act. No common carrier shall charge, demand, collect or receive a greater or less or different compensation for transportation of passengers, freight or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property except such as are regularly and uniformly extended to all persons and corporations under like circumstances. No common carrier subject to the provisions of this act shall, directly or indirectly, issue or give any free ticket, free pass or free transportation for passengers or property between points within this state, except to its officers, employees, agents, pensioners, surgeons, physicians, attorneys-at-law, and their families; to ministers of religion, officers and employees of railroad young men's Christian associations, inmates of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; and to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and boards of managers of such homes; to necessary caretakers of property in transit; to employees of sleep-

ing-car companies, express companies, telegraph and telephone companies doing business along the line of the issuing carrier; to railway mail service employees, post-office inspectors, customs inspectors and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation or proceeding in which the common carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such persons; to the carriage free or at reduced rates of persons or property for the United States, state or municipal governments, or of property to or from fairs and expositions for exhibit thereat. Nothing in this act shall be construed to prohibit the interchange of free or reduced transportation between common carriers of or for their officers, agents, employees, attorneys and surgeons and their families, nor to prohibit any common carrier from carrying passengers or property free, with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; nor to prohibit any common carrier from transporting persons or property as incident to or connected with contracts for construction, operation or maintenance, and to the extent only that such free transportation is provided for in the contract for such work.

Provided further, that nothing in this act shall prevent the issuance of mileage, excursion, or commutation passenger tickets, or joint interchangeable mileage tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand miles or more. But before any common carrier, subject to the provision of this act, shall issue any such mileage, excursion, commutation passenger ticket or joint interchangeable mileage ticket, with special privileges as aforesaid, it shall file with the commission copies of the tariffs of rates, fares or charges on which such tickets are to be based, together with the specifications of the amount of free baggage permitted to be carried under such joint interchangeable mileage ticket, in the same manner as common carriers are required to do with regard to other rates by this act. Nor shall anything in this act prevent the issuance of passenger transportation in exchange for advertising space in newspapers at full rates.

§ 34. **False billing, etc., by carrier or shipper.**—No common carrier or any officer or agent thereof or any person acting for or employed by it, shall assist, suffer or permit any person or corporation to obtain transportation for any passenger,

freight or property between points within this state at less than the rates then established and in force in accordance with the schedules filed and published in accordance with the provisions of this act, by means of false billing, false classification, false weight or weighing, or false report of weight, or by any other device or means. No person, corporation or any officer, agent or employee of a corporation, who shall deliver freight or property for transportation within the state to a common carrier, shall seek to obtain or obtain such transportation for such property at less than the rates then established and in force therefor, as aforesaid, by false billing, false or incorrect classification, false weight or weighing, false representation of the contents of a package, or false report or statement of weight, or by any other device or means, whether with or without the consent or connivance of the common carrier, or any of its officers, agents or employees.

§ 35. **Discrimination prohibited; connecting lines.**—Every common carrier is required to afford all reasonable, proper and equal facilities for the interchange of passenger, freight and property traffic between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and for the prompt transfer of passengers and for the prompt receipt and forwarding of freight and property to and from its said lines; and no common carrier shall in any manner discriminate in respect to rates, fares or charges or in respect to any service or in respect to any charges or facilities for any such transfer in receiving or forwarding between any two or more other common carriers or between passengers, freight or property destined to points upon the lines of any two or more other common carriers or in any respect with reference to passengers, freight or property transferred or received from any two or more other common carriers. This section shall not be construed to require a common carrier to permit or allow any other common carrier to use its tracks or terminal facilities. Every common carrier, as such, is required to receive from every other common carrier, at a connecting point, freight cars of proper standard, and haul the same through to destination, if the destination be upon a line owned, operated or controlled by such common carrier, or if the destination be upon a line of some other common carrier, to haul any car so delivered through to the connecting point upon the line owned, operated, controlled or

leased by it, by way of route over which such car is billed, and there to deliver the same to the next connecting carrier. Nothing in this section shall be construed as in anywise limiting or modifying the duty of a common carrier to establish joint rates, fares and charges for the transportation of passengers, freight and property over the lines owned, operated, controlled and leased by it and the lines of other common carriers, nor as in any manner limiting or modifying the power of the commission to require the establishment of such joint rates, fares and charges. A railroad corporation and a street railroad corporation shall not be required to interchange cars except on such terms and conditions as the commission may direct.

§ 36. Long and short haul.—No common carrier, subject to the provisions of this act, shall charge or receive any greater compensation in the aggregate for the transportation of passengers or of a like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any such common carrier to charge and receive as great a compensation for a shorter as for a longer distance or haul. Upon application of a common carrier the commission may by order authorize it to charge less for longer than for shorter distances for the transportation of passengers or property in special cases after investigation by the commission, but the order must specify and prescribe the extent to which the common carrier making such application is relieved from the operation of this section, and only to the extent so specified and prescribed shall any common carrier be relieved from the operation and requirements of this section.

§ 37. Distribution of cars.—1. Every railroad corporation or other common carrier engaged in the transportation of freight shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor, and offer freight for transportation, sufficient and suitable cars for the transportation of such freight in car-load lots. Every railroad corporation and street railroad corporation shall have sufficient cars and motive power to meet all requirements for the transportation of passengers and property which may reasonably be anticipated, unless relieved therefrom by order of the commission. In case, at any particular time, a common carrier has not sufficient cars to meet all requirements for the transportation of property in car-load lots, all cars available to it

for such purposes shall be distributed among the several applicants therefor, without discrimination between shippers, localities or competitive or non-competitive points, but preference may always be given in the supply of cars for shipment of livestock or perishable property.

2. The commission shall have power to make, and by order shall make, reasonable regulations for the furnishing and distribution of freight cars to shippers, for the switching of the same, for the loading and unloading thereof, for demurrage charges in respect thereto, and for the weighing of cars and freight offered for shipment or transported by any common carrier.

§ 38. **Liability for damage to property in transit.**—Every common carrier and every railroad corporation and street railroad corporation shall, upon demand, issue either a receipt or bill of lading for all property delivered to it for transportation. No contract, stipulation or clause in any receipt or bill of lading shall exempt or be held to exempt any common carrier, railroad corporation or street railroad corporation from any liability for loss, damage or injury caused by it to freight or property from the time of its delivery for transportation until the same shall have been received at its destination and a reasonable time shall have elapsed after notice to consignee of such arrival to permit of the removal of such freight or property. Every common carrier, railroad corporation and street railroad corporation shall be liable for all loss, damage or injury to property caused by delay in transit due to negligence while the same is being carried by it, but in any action to recover for damages sustained by delay in transit the burden of proof shall be upon the defendant to show that such delay was not due to negligence. Every common carrier and railroad corporation shall be liable for loss, damage and injury to property carried as baggage up to the full value and regardless of the character thereof, but the value in excess of one hundred and fifty dollars shall be stated upon delivery to the carrier, and a written receipt stating the value shall be issued by the carrier, who may make a reasonable charge for the assumption of such liability in excess of one hundred and fifty dollars and for the carriage of baggage exceeding one hundred and fifty pounds in weight upon a single ticket. Nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law.

§ 39. **Continuous carriage.**— No common carrier shall enter into or become a party to any combination, contract, agreement or understanding, written or oral, express or implied, to prevent by any arrangement or by change of arrangement of time schedule, by carriage in different cars or by any other means or device whatsoever the carriage of freight and property from being continuous from the place of shipment to the place of destination. No breakage of bulk, stoppage or interruption of carriage made by any common carrier shall prevent the carriage of freight and property from being treated as one continuous carriage from the place of shipment to the place of destination. Nor shall any such breakage of bulk, stoppage or interruption of carriage be made or permitted by any common carrier except it be done in good faith for a necessary purpose without intention to avoid or unnecessarily interrupt or delay the continuous carriage of such freight or property or to evade any of the provisions of law, of this act or of an order of the commission.

§ 40. **Liability for loss or damage caused by violation of this act.**— In case a common carrier shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done, either by any law of the state of New York, by this act or by an order of the commission, such common carrier shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery, if the court shall find that such act or omission was wilful, it may in its discretion fix a reasonable counsel or attorney's fee, which fee shall be taxed and collected as part of the costs in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any such person or corporation.

ARTICLE III.

PROVISIONS RELATING TO THE POWERS OF THE COMMISSIONS IN RESPECT TO COMMON CARRIERS, RAILROADS AND STREET RAILROADS.

- Section 45. General powers and duties of commissions in respect to common carriers, railroads and street railroads.
46. Reports of common carriers, railroad corporations and street railroad corporations.

- Section 47. Investigation of accidents.
48. Investigations by commission.
49. Rates and service to be fixed by the commissions.
50. Power of commissions to order repairs or changes.
51. Power of commissions to order changes in time schedules; running of additional cars and trains.
52. Uniform system of accounts; access to accounts, et cetera; forfeitures.
53. Franchises and privileges.
54. Transfer of franchises or stocks.
55. Approval of issues of stock, bonds and other forms of indebtedness.
56. Forfeiture; penalties.
57. Summary proceedings.
58. Penalties for other than common carriers.
59. Action to recover penalties or forfeitures.
60. Duties of commissions as to interstate traffic.

§ 45. General powers and duties of commissions in respect to common carriers, railroads and street railroads.— 1. Each commission and each commissioner shall have power and authority to administer oaths, in all parts of the state, to witnesses summoned to testify in any inquiry, investigation, hearing or proceeding; and also to administer oaths in all parts of the state whenever the exercise of such power is incidentally necessary or proper to enable the commission or a commissioner to perform a duty or to exercise a power.

2. Each commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations within its jurisdiction as hereinbefore defined, and shall have power to and shall examine the same and keep informed as to their general condition, their capitalization, their franchises and the manner in which their lines, owned, leased, controlled or operated, are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements.

3. Each commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any person or corporation subject to its supervision, and by subpoena duces tecum to compel production thereof. In lieu of requiring

production of originals by subpoena duces tecum, the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers or parts thereof to be filed with it.

4. Either commission shall conduct a hearing and take testimony as to the advisability of any proposed change of law relating to any common carrier, railroad corporation or street railroad corporation, if requested to do so by the legislature, by the senate or assembly committee on railroads, or by the governor, and may conduct such a hearing, when requested to do so by any person or corporation, and shall report its conclusions to the officer, body, person or corporation at whose request the hearing was held. The commission may also recommend the enactment of such legislation, with respect to any matter within its jurisdiction, as it deems wise or necessary in the public interest, and may draft or cause to be drafted such bills or acts as it may deem necessary or proper to enact into law the legislation recommended by it.

§ 46. **Reports of common carriers, railroad corporations and street railroad corporations.**— Each commission shall prescribe the form of the annual reports required under this act to be made by common carriers, railroad and street railroad corporations, and may from time to time make such changes therein and additions thereto as it may deem proper; provided, however, that if any such changes or additions require any alteration in the method or form of keeping the accounts of such corporations, the commission shall give to them at least six months' notice before the expiration of any fiscal year of any such changes or additions, and on or before June thirtieth, in each year, shall furnish a blank form for such report. The contents of such report and the form thereof shall conform as near as may be to that required of common carriers under the provisions of the act of congress, entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the act amendatory thereof approved June twenty-ninth, nineteen hundred and six, and other amendments thereto. The commission may require such report to contain information in relation to rates or regulations concerning fares or freights, agreements or contracts affecting the same, so far as such rates or regulations pertain to transportation within the state. When the report of any such corporation is defective, or believed to be erroneous,

the commission shall notify the corporation to amend the same within thirty days. The originals of the reports, subscribed and sworn to as prescribed by law, shall be preserved in the office of the commission. The commission may also require such corporations to file monthly reports of earnings and expenses within a specified time. The commission may require of all such corporations specific answers to questions upon which the commission may need information. The annual report required to be filed by a common carrier, railroad or street railroad corporation shall be so filed on or before the thirtieth day of September in each year. The commission may extend the time for making and filing such report for a period not exceeding sixty days. If such corporation shall fail to make and file the annual report within the time above specified or within the time as extended by the commission, or shall fail to make specific answer to any question, or shall fail to make the monthly reports when required by the commission as herein provided, within thirty days from the time when it is required to make and file any such report or answer, such corporation shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the people of the state of New York. The amount recovered in any such action shall be paid into the state treasury and credited to the general fund. Any railroad corporation operating a line partly within the second district and partly within the first district shall report to the commission of the second district; but the commission of the first district may, upon reasonable notice, require a special report from such railroad corporation. Any street railroad corporation operating a line partly within the first district and partly within the second district shall report to the commission of the first district; but the commission of the second district may, upon reasonable notice, require a special report from such street railroad corporation.

§ 47. **Investigation of accidents.**—Each commission shall investigate the cause of all accidents on any railroad or street railroad within its district which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier, railroad corporation and street railroad corporation is hereby required to give immediate notice to the commission of every accident happening upon

any line of railroad or street railroad owned, operated, controlled or leased by it, within the territory over which such commission has jurisdiction in such manner as the commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier, railroad corporation or street railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice.

§ 48. **Investigations by commission.**—1. Each commission may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier, railroad corporation or street railroad corporation, subject to its supervision, and the commission must make such inquiry in regard to any act or thing done or omitted to be done by any such common carrier, railroad corporation or street railroad corporation in violation of any provision of law or in violation of any order of the commission.

2. Complaints may be made to the proper commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier, railroad corporation or street railroad corporation in violation, or claimed to be in violation, of any provision of law or of the terms and conditions of its franchise or charter or of any order of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of, accompanied by an order, directed to such person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise or order charged in the complaint, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.

3. Whenever either commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier, railroad corporation or street

railroad corporation under this section it shall be its duty to make and file an order either dismissing the petition or complaint or directing the common carrier, railroad corporation or street railroad corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require.

§ 49. Rates and service to be fixed by the commission.—Whenever either commission shall be of opinion, after a hearing, upon a complaint made as provided in this act, that the rates, fares or charges demanded, exacted, charged or collected by any common carrier, railroad corporation or street railroad corporation subject to its jurisdiction for the transportation of persons, freight or property within the state, or that the regulations or practices of such common carrier, railroad corporation or street railroad corporation affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in anywise in violation of any provision of law, the commission shall determine the just and reasonable rates, fares and charges to be thereafter observed and in force as the maximum to be charged for the service to be performed, and shall fix the same by order to be served upon all common carriers, railroad corporations or street railroad corporations by whom such rates, fares and charges are thereafter to be observed. And whenever the commission shall be of opinion, after a hearing, had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances, or service of any such common carrier, railroad corporation or street railroad corporation in respect to transportation of persons, freight or property within the state are unjust, unreasonable, unsafe, improper or inadequate, the commission shall determine the just, reasonable, safe, adequate and proper regulations, practices, equipment, appliances and service thereafter to be in force, to be observed and to be used in such transportation of persons, freight and property and so fix and prescribe the same by order to be served upon every common carrier, railroad corporation and street railroad corporation to be bound thereby; and thereafter it shall be the duty of every common carrier, railroad corporation and street railroad corporation to observe and obey each and every requirement of every such order so served upon it, and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by all its officers, agents and

employees. The commission shall have power by order to require any two or more common carriers or railroad corporations whose lines, owned, operated, controlled or leased, form a continuous line of transportation or could be made to do so by the construction and maintenance of switch connection, to establish through routes and joint rates, fares and charges for the transportation of passengers, freight and property within the state as the commission may, by its order, designate; and in case such through routes and joint rates be not established by the common carriers or railroad corporations named in any such order within the time therein specified, the commission shall establish just and reasonable rates, fares and charges to be charged for such through transportation, and declare the portion thereof to which each common carrier or railroad corporation affected thereby shall be entitled and the manner in which the same shall be paid and secured.

§ 50. Power of commissions to order repairs or changes.— If, in the judgment of the commission having jurisdiction, repairs or improvements to or changes in any tracks, switches, terminals or terminal facilities, motive power, or any other property or device used by any common carrier, railroad corporation or street railroad corporation in or in connection with the transportation of passengers, freight or property ought reasonably to be made, or that any additions should reasonably be made thereto, in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for the transportation of passengers, freight or property, the commission shall, after a hearing either on its own motion or after complaint, make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every common carrier, railroad corporation and street railroad corporation is hereby required and directed to make all repairs, improvements, changes and additions required of it by any order of the commission served upon it.

§ 51. Power of commissions to order changes in time schedules; running of additional cars and trains.— If, in the judgment of the commission having jurisdiction, any railroad corporation or street railroad corporation does not run trains enough or cars enough or possess or operate motive power enough, reasonably to accommodate the traffic, passenger and freight, transported

by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not run any train or trains, car or cars, upon a reasonable time schedule for the run, the commission shall, after a hearing either on its own motion or after complaint, have power to make an order directing any such railroad corporation or street railroad corporation to increase the number of its trains or of its cars or its motive power or to change the time for starting its trains or cars or to change the time schedule for the run of any train or car or make any other suitable order that the commission may determine reasonably necessary to accommodate and transport the traffic, passenger or freight, transported or offered for transportation.

§ 52. **Uniform system of accounts; access to accounts, etc.; forfeitures.**— Each commission may, whenever it deems advisable, establish a uniform system of accounts to be used by railroad and street railroad corporations or other common carriers which are subject to its supervision, and may prescribe the manner in which such accounts shall be kept. It may also in its discretion prescribe the forms of accounts, records and memoranda to be kept by such corporations, including the accounts, records and memoranda of the movement of traffic as well as the receipts and expenditures of moneys. The system of accounts established by the commission and the forms of accounts, records and memoranda prescribed by it as provided above shall conform as near as may be to those from time to time established and prescribed by the interstate commerce commission under the provisions of the act of congress entitled "An act to regulate commerce" approved February fourth, eighteen hundred and eighty-seven, as amended by the act approved June twenty-ninth, nineteen hundred and six, and amendments thereto. The commission shall at all times have access to all accounts, records and memoranda kept by railroad and street railroad corporations and may prescribe the accounts in which particular outlays and receipts shall be entered, and may designate any of its officers or employees who shall thereupon have authority under the order of the commission to inspect and examine any and all accounts, records and memoranda kept by such corporations. Where the commission has prescribed the forms of accounts, records and memoranda to be kept by such corporations it shall be unlawful for them to keep any other accounts, records or memoranda than those so prescribed, or those prescribed by or

under authority of the United States. Any employee or agent of the commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination except in so far as he may be directed by the commission, or by a court or judge thereof, or authorized by law, shall be guilty of a misdemeanor.

§ 53. **Franchises and privileges.**—Without first having obtained the permission and approval of the proper commission no railroad corporation, street railroad corporation or common carrier shall begin the construction of a railroad or street railroad, or any extension thereof, for which prior to the time when this act becomes a law a certificate of public convenience and necessity shall not have been granted by the board of railroad commissioners or where prior to said time said corporation or common carrier shall not have become entitled by virtue of its compliance with the provisions of the railroad law to begin such construction; nor, except as above provided in this section, shall any such corporation or common carrier exercise any franchise or right under any provision of the railroad law, or of any other law, not heretofore lawfully exercised, without first having obtained the permission and approval of the proper commission. The commission within whose district such construction is to be made, or within whose district such franchise or right is to be exercised, shall have power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the franchise or privilege is necessary or convenient for the public service. And if such construction is to be made, or such franchise to be exercised in both districts, the approval of both commissions shall be secured.

§ 54. **Transfer of franchises or stocks.**—No franchise nor any right to or under any franchise, to own or operate a railroad or street railroad shall be assigned, transferred or leased, nor shall any contract or agreement with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever, unless the assignment, transfer, lease, contract or agreement shall have been approved by the proper commission. The permission and approval of the commission, to the exercise of a franchise under section fifty-three, or to the assignment, transfer or lease of a franchise under this section shall not be construed to revive or validate any lapsed or invalid franchise, or to enlarge or add to the powers and privileges contained in the grant of any franchise, or to waive any forfeiture.

No railroad corporation, or street railroad corporation, domestic or foreign, shall hereafter purchase or acquire, take or hold, any part of the capital stock of any railroad corporation or street railroad corporation or other common carrier organized or existing under or by virtue of the laws of this state, unless authorized so to do by the commission empowered by this act to give such consent; and save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission empowered by this act to give such consent, no stock corporation of any description, domestic or foreign, other than a railroad corporation or street railroad corporation, shall purchase or acquire, take or hold, more than ten per centum of the total capital stock issued by any railroad corporation or street railroad corporation or other common carrier organized or existing under or by virtue of the laws of this state. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, in violation of any provision of this act, shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such railroad corporation or street railroad corporation, or shall be recognized as effective for any purpose. The power conferred by this section to approve or disapprove a transaction relating to franchises, rights or stock of any railroad corporation or street railroad corporation, or other common carrier, shall be exercised by the commission which is authorized by this act to approve the issue of stock by such railroad corporation or street railroad corporation.

§ 55. **Approval of issues of stock, bonds and other forms of indebtedness.**— A common carrier, railroad corporation or street railroad corporation organized or existing, or hereafter incorporated, under or by virtue of the laws of the state of New York, may issue stocks, bonds, notes or other evidence of indebtedness payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service or for the discharge or lawful refunding of its obligations, provided and not otherwise that there shall have been secured from the proper commission an order authorizing such issue, and the amount thereof and stating that, in the opinion of the commission, the use

of the capital to be secured by the issue of such stock, bonds, notes or other evidence of indebtedness is reasonably required for the said purposes of the corporation, but this provision shall not apply to any lawful issue of stock, to the lawful execution and delivery of any mortgage or to the lawful issue of bonds thereunder, which shall have been duly approved by the board of railroad commissioners before the time when this act becomes a law. For the purpose of enabling it to determine whether it should issue such an order, the commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. Such common carrier, railroad corporation or street railroad corporation may issue notes, for proper corporate purposes and not in violation of any provision of this or any other act, payable at periods of not more than twelve months without such consent, but no such notes shall, in whole or in part, directly or indirectly be refunded by any issue of stock or bonds or by any evidence of indebtedness running for more than twelve months without the consent of the proper commission. Provided, however, that the commission shall have no power to authorize the capitalization of any franchise to be a corporation or to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise or right; nor shall the capital stock of a corporation formed by the merger or consolidation of two or more other corporations, exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger. Whenever it shall happen that any railroad corporation shall own or operate its lines in both districts it shall, under this section, apply to the commission of the second district. Whenever it shall happen that any street railroad corporation shall own or operate its lines in both districts, it shall, under this section, apply to the commission of the first district. Any other common carrier not operating exclusively in the first district shall apply to the commission of the second district.

§ 56. Forfeiture; penalties.— 1. Every common carrier, railroad corporation and street railroad corporation and all officers, and agents of any common carrier, railroad corporation or street railroad corporation shall obey, observe and comply with every order made by the commission, under authority of this act, so long as the same shall be and remain in force. Any common carrier, railroad corporation or street railroad corporation which shall violate any provision of this act, or which fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of the commission, shall forfeit to the people of the state of New York not to exceed the sum of five thousand dollars for each and every offense; every violation of any such order or direction or requirement, or of this act, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense.

2. Every officer and agent of any such common carrier or corporation who shall violate, or who procures, aids or abets any violation by any such common carrier or corporation of, any provision of this act, or who shall fail to obey, observe and comply with any order of the commission or any provision of an order of the commission, or who procures, aids or abets any such common carrier or corporation in its failure to obey, observe and comply with any such order or provision, shall be guilty of a misdemeanor.

§ 57. Summary proceedings.— Whenever either commission shall be of opinion that a common carrier, railroad corporation or street railroad corporation subject to its supervision is failing or omitting or about to fail or omit to do anything required of it by law or by order of the commission, or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order of the commission, it shall direct counsel to the commission to commence an action or proceeding in the supreme court of the state of New York in the name of the commission for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunction. Counsel to the commission shall thereupon begin such action or proceeding by a petition to the supreme court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time,

not exceeding twenty days after service of a copy of the petition, within which the common carrier, railroad corporation or street railroad corporation complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations as the court shall deem necessary or proper to join as parties in order to make its order, judgment or writs effective, may be joined as parties upon application of counsel to the commission. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction or both issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief.

§ 58. Penalties for other than common carriers.— 1. Any corporation, other than a common carrier, railroad corporation or street railroad corporation, which shall violate any provision of this act, or shall fail to obey, observe and comply with every order made by the commission under authority of this act, so long as the same shall be and remain in force, shall forfeit to the people of the state of New York a sum not exceeding one thousand dollars for each and every offense; every such violation shall be a separate and distinct offense, and the penalty or forfeiture thereof shall be recovered in an action as provided in section fifty-nine of this act.

2. Every person who, either individually or acting as an officer or agent of a corporation other than a common carrier, railroad corporation or street railroad corporation, shall violate any provision of this act or fail to obey, observe or comply with any order made by the commission under this act, so long as the same shall be or remain in force, or who shall procure, aid or abet any such corporation in its violation of this act or in its failure to obey, observe or comply with any such order, shall be guilty of a misdemeanor.

3. In construing and enforcing the provisions of this act relating to forfeitures and penalties the act of any director, officer or other person acting for or employed by any common carrier, railroad corporation, street railroad corporation or corporation, acting within the scope of his official duties

or employment, shall be in every case and be deemed to be the act of such common carrier, railroad corporation, street railroad corporation or corporation.

§ 59. Action to recover penalties or forfeitures.— An action to recover a penalty or a forfeiture under this act may be brought in any court of competent jurisdiction in this state in the name of the people of the state of New York, and shall be commenced and prosecuted to final judgment by counsel to the commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order of the commission the defendant was actually and in good faith prosecuting a suit, action or proceeding in the courts to set aside such order, the court shall remit the penalties or forfeitures incurred during the pendency of such suit, action or proceeding. All moneys recovered in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund.

§ 60. Duties of commissions as to interstate traffic.— Either commission may investigate freight rates on interstate traffic on railroads within the state, and when such rates are, in the opinion of either commission, excessive or discriminatory or are levied or laid in violation of the interstate commerce law, or in conflict with the rulings, orders or regulations of the interstate commerce commission, the commission may apply by petition to the interstate commerce commission for relief or may present to the interstate commerce commission all facts coming to its knowledge, as to violations of the rulings, orders, or regulations of that commission or as to violations of the interstate commerce law.

ARTICLE IV.

PROVISIONS RELATING TO GAS AND ELECTRICAL CORPORATIONS; REGULATION OF PRICE OF GAS AND ELECTRICITY.

Section 65. Application of article.

66. General powers of commissions in respect to gas and electricity.

67. Inspection of gas and electric meters.

- Section 68. Approval of incorporation and franchises; certificate.
69. Approval of issue of stock, bonds and other forms of indebtedness.
70. Approval of transfer of franchise.
71. Complaints as to quality and price of gas and electricity; investigation by commission; forms of complaints.
72. Notice and hearing; order fixing price of gas or electricity, or requiring improvements.
73. Forfeiture for noncompliance with order.
74. Summary proceedings.
75. Defence in case of excessive charge for gas or electricity.
76. Jurisdiction.
77. Powers of local officers.

§ 65. Application of article.— This article shall apply to the manufacture and furnishing of gas for light, heat or power and the furnishing of natural gas for light, heat or power, and the generation, furnishing and transmission of electricity for light, heat or power.

§ 66. General powers of commissions in respect to gas and electricity.— Each commission shall within its jurisdiction:

1. Have the general supervision of all persons and corporations having authority under any general or special law or under any charter or franchise to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality, for the purpose of furnishing or distributing gas or of furnishing or transmitting electricity for light, heat or power, or maintaining underground conduits or ducts for electrical conductors.

2. Investigate and ascertain, from time to time, the quality of gas supplied by persons, corporations and municipalities; examine the methods employed by such persons, corporations and municipalities in manufacturing and supplying gas or electricity for light, heat or power and in transmitting the same, and have power to order such improvements as will best promote the public interest, preserve the public health and protect those using such gas or electricity and those employed in the manufacture and distribution thereof, or in the maintenance and operation of the works, wires, poles, lines, conduits, ducts and systems maintained in connection therewith.

3. Have power to fix the standard of illuminating power and purity of gas, not less than that prescribed by law, to be manufactured or sold by persons, corporations or municipalities for lighting, heating or power purposes, and to prescribe methods of regulation of the electric supply system as to the use for incandescent lighting and fix the initial efficiency of incandescent lamps furnished by the persons, corporations or municipalities generating and selling electric current for lighting, and by order to require the gas so manufactured or sold to equal the standard so fixed by it, and to establish the regulations as to pressure at which gas shall be delivered. For the purpose of determining whether the gas sold by such persons, corporations or municipalities for lighting, heating or power purposes conforms to the standard of illuminating power and purity and, of its own motion, examine and investigate the methods employed in manufacturing, delivering and supplying the gas so sold, and shall have access through its members or persons employed and authorized by it to make such examinations and investigations to all parts of the manufacturing plants owned, used or operated for the manufacture or distribution of gas by any such person, corporation or municipality. Any employee or agent of the commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination, except in so far as he may be directed by the commission, or by a court or judge thereof, or authorized by law, shall be guilty of a misdemeanor.

4. Have power, in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by the persons, corporations and municipalities engaged in the manufacture, sale and distribution of gas and electricity for light, heat or power.

5. Examine all persons, corporations and municipalities under its supervision, keep informed as to the methods employed by them in the transaction of their business and see that their property is maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters.

6. Require every person and corporation under its supervision to submit to it an annual report, verified by the oath of the president, treasurer, or general manager thereof, showing in detail (1) the amount of its authorized capital stock and the amount thereof issued and outstanding; (2) the amount of its authorized

bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (3) its receipts and expenditures during the preceding year; (4) the amount paid as dividends upon its stock and as interest upon its bonds; (5) the name of, and the amount paid as salary to each officer and the amount paid as wages to its employees; (6) the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired, and (7) such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be submitted at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms, giving to the persons, corporations and municipalities six months' notice before the time fixed by the commission as the expiration of the fiscal year of any changes or additions which would require any alteration in the method or form of keeping their accounts for the ensuing year. When any such report is defective or believed to be erroneous, the commission shall notify the person, corporation or municipality making such report to amend the same within thirty days. Any such person or corporation or municipality which shall neglect to make any such report within the time specified by the commission, or which shall fail to correct any such report within thirty days after notice, shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the people of the state of New York. The amount recovered in any such action shall be paid into the state treasury and be credited to the general fund. The commission may extend the time herein limited for cause shown.

7. Require each municipality engaged in operating any works or systems for the manufacture and supplying of gas or electricity to make an annual report to the commission, verified by the oath of the general manager or superintendent thereof, showing in detail, (1) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding for lighting purposes, (2) its receipts and expenditures during

the preceding year, (3) the amount paid as interest upon its bonds and upon other forms of evidence of indebtedness, (4) the name of and the amount paid to each person receiving a yearly or monthly salary, and the amount paid as wages to employees, (5) the location of its plant and system with a full description of the property, and (6) such other facts pertaining to the operation and maintenance of the plant and system, as may be required by the commission. Such report shall be in the form, cover the period and be submitted at the time prescribed by the commission.

8. Have power, either through its members or inspectors or employees duly authorized by it, to enter in or upon and to inspect the property, buildings, plants, factories, power houses and offices of any of such corporations, persons or municipalities.

9. Have power to examine the books and affairs of any such corporation, persons or municipalities, and to compel the production before it of books and papers pertaining to the affairs being investigated by it.

10. Have power, either as a commission or through its members, to subpoena witnesses, take testimony and administer oaths to witnesses in any proceeding or examination instituted before it, or conducted by it in reference to any matter within its jurisdiction under this article.

§ 67. Inspection of gas and electric meters.— 1. Each commission shall appoint inspectors of gas and electric meters whose duty it shall be when required, to inspect, examine, prove and ascertain the accuracy of any and all gas meters used or intended to be used for measuring or ascertaining the quantity of illuminating or fuel gas or natural gas furnished by any gas corporation to or for the use of any person and any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electric current furnished for light, heat and power by any electrical corporation to or for the use of any person or persons and when found to be or made to be correct, the inspector shall stamp or mark all such meters and each of them with some suitable device, which device shall be recorded in the office of the secretary of state.

2. No corporation or person shall furnish or put in use any gas meter which shall not have been inspected, proved and sealed, or any electric meter which shall not have been inspected, approved, stamped or marked by an inspector of the commission. Every gas and electrical corporation shall provide or keep in and

upon its premises a suitable and proper apparatus, to be approved and stamped or marked by the commission, for testing and proving the accuracy of gas and electric meters furnished for use by it, and by which apparatus every meter may and shall be tested, on the written request of the consumer to whom the same shall be furnished, and in his presence if he desires it.

If any consumer to whom a meter has been furnished, shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested; if the same on being so tested shall be found to be, four per cent. if an electric meter, or two per cent. if a gas meter, defective or incorrect to the prejudice of the consumer, the inspector shall order the gas or electrical corporation forthwith to remove the same and to place instead thereof a correct meter, and the expense of such inspection and test shall be borne by the corporation; if the same on being so tested shall be found to be correct the expense of such inspection and test shall be borne by the consumer. A uniform reasonable charge shall be fixed by the commission for this service.

§ 68. **Approval of incorporation and franchises; certificate.**— No gas corporation or electrical corporation incorporated under the laws of this or any other state shall begin construction, or exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised without first having obtained the permission and approval of the proper commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation,* showing that it has received the required consent of the proper municipal authorities. No municipality shall build, maintain and operate for other than municipal purposes any works or systems for the manufacture and supplying of gas or electricity for lighting purposes without a certificate of authority granted by the commission. If the certificate of authority is refused, no further proceedings shall be taken before the commission, but a new application may be made therefor after one year from the date of such refusal.

§ 69. **Approval of issues of stock, bonds and other forms of indebtedness.**— A gas corporation or electrical corporation organized or existing, or hereafter incorporated, under or by virtue of the laws of the state of New York, may issue stocks,

* So in original.

bonds, notes or other evidence of indebtedness payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of its plant or distributing system, or for the improvement or maintenance of its service or for the discharge or lawful refunding of its obligations, provided and not otherwise that there shall have been secured from the proper commission an order authorizing such issue, and the amount thereof, and stating that, in the opinion of the commission, the use of the capital to be secured by the issue of such stock, bonds, notes or other evidence of indebtedness is reasonably required for the said purposes of the corporation. For the purpose of enabling it to determine whether or not it should issue such an order, the commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. Such gas corporation or electrical corporation may issue notes, for proper corporate purposes and not in violation of any provision of this or of any other act, payable at periods of not more than twelve months without such consent; but no such notes shall, in whole or in part, directly or indirectly be refunded by any issue of stock or bonds or by any evidence of indebtedness running for more than twelve months without the consent of the proper commission. Provided, however, that the commission shall have no power to authorize the capitalization of any franchise to be a corporation or to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to any political subdivision thereof as the consideration for the grant of such franchise or right. Nor shall the capital stock of a corporation formed by the merger or consolidation of two or more other corporations, exceed the sum of the capital stock of the corporations, so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger.

§ 70. Approval of transfer of franchise.— No gas corporation or electrical corporation shall transfer or lease its franchise, works or system or any part of such franchise, works or system

to any other person or corporation or contract for the operation of its works and system, without the written consent of the proper commission. The permission and approval of the commission, to the exercise of a franchise under section sixty-eight of this act, or to the assignment, transfer or lease of a franchise under this section shall not be construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture. No such corporation shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business, or proposing to operate or operating under a franchise from the same or any other municipality, unless authorized so to do by the commission. Save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission empowered by this act to give such consent, no stock corporation of any description, domestic or foreign, other than a gas or electrical corporation, shall purchase or acquire, take or hold, more than ten per centum of the total capital stock issued by any gas corporation or electrical corporation organized or existing under or by virtue of the laws of this state. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, in violation of any provision of this act, shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such gas corporation, or electrical corporation, or shall be recognized as effective for any purpose.

§ 71. **Complaints as to quality and price of gas and electricity; investigation by commission; forms of complaints.**—Upon the complaint in writing of the mayor of a city, the trustees of a village or the town board of a town in which a person or corporation is authorized to manufacture, sell or supply gas or electricity for heat, light or power, or upon the complaint in writing of not less than one hundred customers or purchasers of such gas or electricity in cities of the first or second class, or of not less than fifty in cities of the third class, or of not less than twenty-five elsewhere, either as to the illuminating power, purity, pressure or price of gas or the initial efficiency of the electric incandescent lamp supply, or the regulation of the voltage of the supply sys-

tem used for incandescent lighting, or price of electricity sold and delivered in such municipality, the proper commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant and methods used by such person or corporation in manufacturing, transmitting and supplying such gas or electricity, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas or electricity. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any.

§ 72. **Notice and hearing; order fixing price of gas or electricity, or requiring improvement.**—Before proceeding under a complaint presented as provided in section seventy-one, the commission shall cause notice of such complaint, and the purpose thereof, to be served upon the person or corporation affected thereby. Such person or corporation shall have an opportunity to be heard in respect to the matters complained of, at a time and place to be specified in such notice. If an investigation be instituted upon motion of the commission the person or corporation affected by the investigation may be permitted to appear before the commission at a time and place specified in the notice and answer all charges which may be preferred by the commission. After a hearing and after such investigation as may have been made by the commission or its officers, agents, examiners or inspectors, the commission within lawful limits may, by order, fix the maximum price of gas or electricity to be charged by such corporation or person, or may order such improvement in the manufacture or supply of such gas, in the manufacture, transmission or supply of such electricity, or in the methods employed by such person or corporation, as will in its judgment improve the service. The price so fixed by the commission shall be the maximum price to be charged by such person or corporation for gas or electricity in such municipality until the commission shall upon complaint as provided in this section or upon an investigation conducted by it on its own motion, again fix the maximum price of such gas or electricity. In determining the price to be charged for gas or

electricity the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein.

§ 73. **Forfeiture for noncompliance with order.**—Every gas corporation and electrical corporation and the officers, agents or employees thereof shall obey, observe and comply with every order made by the commission under authority of this act, so long as the same shall be and remain in force. Any such corporation, or any officer, agent or employee thereof, who knowingly fails or neglects to obey or comply with such order, or any provision of this act, shall forfeit to the state of New York not to exceed the sum of one thousand dollars for each offense. Every distinct violation of any such order or of this act, shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. An action to recover such forfeiture may be brought in any court of competent jurisdiction in this state in the name of the people of the state of New York, and shall be commenced and prosecuted to final judgment by counsel to the commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order of the commission the defendant was actually and in good faith prosecuting the suit, action or proceeding in the courts to set aside such order, the court shall remit the penalties or forfeitures incurred during the pendency of such suit, action or proceeding. All moneys recovered in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund.

§ 74. **Summary proceedings.**—Whenever either commission shall be of opinion that a gas corporation, electrical corporation or municipality within its jurisdiction is failing or omitting or about to fail or omit to do anything required of it by law or by order of the commission or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order

of the commission, it shall direct counsel to the commission to commence an action or proceeding in the supreme court of the state of New York in the name of the commission for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunction. Counsel to the commission shall thereupon begin such action or proceeding by a petition to the supreme court alleging the violation complained of and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify the time not exceeding twenty days after service of a copy of the petition within which the gas corporation, electrical corporation or municipality complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct without other or formal pleadings, and without respect to any technical requirement. Such other persons or corporations, as it shall seem to the court necessary or proper to join as parties in order to make its order, judgment or writs effective, may be joined as parties upon application of counsel to the commission. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that a writ of mandamus or an injunction or both issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief.

§ 75. **Defense in case of excessive charges for gas or electricity.**— If it be alleged and established in an action brought in any court for the collection of any charge for gas or electricity, that a price has been demanded in excess of that fixed by the commission or by statute in the municipality wherein the action arose, no recovery shall be had therein, but the fact that such excessive charges have been made shall be a complete defense to such action.

§ 76. **Jurisdiction.**— Whenever any corporation supplies gas or electricity to consumers in both districts, any application or report to a commission required by this act shall be made to the commission of the district within which it is mainly supplying, or proposing to supply, such service to consumers. But nothing herein contained shall be construed to deprive the commission of either district of the power of supervision and regulation within its district. And either commission shall have power to enter and inspect the plant of such corporation, wherever situated

§ 77. **Powers of local officers.**— If in any city of the first or second class there now exists or shall hereafter be created a board, body or officer having jurisdiction of matters pertaining to gas or electric service, such board, body or officer shall have and may exercise such power, jurisdiction and authority in enforcing the laws of the state and the orders, rules and regulations of the commission as may be prescribed by statute or by the commission.

ARTICLE V.

COMMISSIONS AND OFFICES ABOLISHED; SAVING CLAUSE; REPEAL.

Section 80. Board of railroad commissioners abolished; effect thereof.

81. Commission of gas and electricity abolished; effect thereof.

82. Inspector of gas meters abolished; effect thereof.

83. Board of rapid transit railroad commissioners abolished; effect thereof.

84. Transfer of records.

85. Pending actions and proceedings.

86. Construction.

87. Repeal.

88. Appropriation.

89. Time of taking effect.

§ 80. **Board of railroad commissioners abolished; effect thereof.**— On and after the taking effect of this act the board of railroad commissioners shall be abolished. All the powers and duties of such board conferred and imposed by any statute of this state shall thereupon be exercised and performed by the public service commissions.

§ 81. **Commission of gas and electricity abolished; effect thereof.**— On and after the taking effect of this act the commission of gas and electricity shall be abolished. All the powers and duties of such commission conferred and imposed by any statute of this state shall be exercised and performed by the public service commissions.

§ 82. **Inspector of gas meters abolished; effect thereof.**— On and after the taking effect of this act the offices of inspector and deputy inspectors of gas meters shall be abolished. All the powers and duties of such inspector conferred and imposed by any statute of this state shall be exercised and performed by the public

service commissions. But any meter inspected, proved and sealed, by the said inspector of gas meters, prior to the taking effect of this act, shall be deemed to have been inspected by the commission.

§ 83. Board of rapid transit railroad commissioners abolished; effect thereof.— On and after the taking effect of this act the board of rapid transit railroad commissioners shall be abolished. All the powers and duties of such board conferred and imposed by any statute of this state shall thereupon be exercised and performed by the public service commission of the first district.

§ 84. Transfer of records.— 1. The board of railroad commissioners, the commission of gas and electricity, and the inspector of gas meters, shall transfer and deliver to the public service commission of the second district all books, maps, papers and records of whatever description, now in their possession; and upon taking effect of this act, the said commission is authorized to take possession of all such books, maps, papers and records.

2. The board of rapid transit railroad commissioners shall transfer and deliver to the public service commission of the first district all contracts, books, maps, plans, papers and records of whatever description, now in their possession; and upon taking effect of this act, the said commission is authorized to take possession of all such contracts, books, maps, plans, papers and records. The said commission may also, at its pleasure, retain in its employment any person or persons now employed by the said board of rapid transit railroad commissioners, and all said persons shall be eligible for transfer and appointment to positions under the public service commission of the first district.

§ 85. Pending actions and proceedings.— This act shall not affect pending actions or proceedings, civil or criminal, brought by or against the board of railroad commissioners or the commission of gas and electricity, or the board of rapid transit railroad commissioners, but the same may be prosecuted or defended in the name of the public service commission, provided the subject-matter thereof is within the statutory jurisdiction of such commission. Any investigation, examination or proceeding undertaken, commenced or instituted by the said boards or commission or either of them prior to the taking effect of this act may be conducted and continued to a final determination by the proper public service commission in the same manner under the same terms and conditions, and with the same effect as though such boards or commission had not been abolished.

§ 86. **Construction.**— Wherever the terms board of railroad commissioners, or commission of gas and electricity or inspector of gas meters or board of rapid transit railroad commissioners occur in any law, contract or document or whenever in any law, contract or document reference is made to such boards, commission or inspector, such terms or reference shall be deemed to refer to and include the public service commissions as established by this act, so far as such law, contract or document pertains to matters which are within the jurisdiction of the said public service commissions. Nothing in this act contained shall be deemed to apply to or operate upon interstate or foreign commerce.

§ 87. **Repeal.**— The following acts and parts of acts, together with all other acts amendatory of such acts, and all acts and parts of acts otherwise in conflict with this act, are hereby repealed;

Laws of 1905, chapter 737.

Laws of 1905, chapter 728.

Laws of 1904, chapter 158.

Laws of 1902, chapter 373.

Laws of 1896, chapter 456.

Laws of 1894, chapter 452.

Laws of 1892, chapter 534.

Laws of 1891, chapter 4, sections 1, 2 and 3.

Laws of 1890, chapter 565, sections 150 to 172 inclusive.

Laws of 1890, chapter 566, sections 62, 63 and 64.

§ 88. **Appropriation.**— There shall be appropriated for the use of the commissions, and for the payment of salaries and disbursements under this act, from money not otherwise appropriated, the sum of three hundred thousand dollars, one hundred and fifty thousand dollars for the use of the commission of the first district and one hundred and fifty thousand dollars for the use of the commission of the second district.

§ 89. **Time of taking effect.**— This act shall take effect July first, nineteen hundred and seven.

STATE OF NEW YORK, }
Office of the Secretary of State. } ss.:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

JOHN S. WHALEN,
Secretary of State.

